

STATEMENT BY ANTHONY LESNICK, CANCER SURVIVOR

READ BY STATE REPRESENTATIVE DAVID ROBERTSON, 51st DISTRICT

2/14/07

Dear Members of the House Judiciary Committee,

I am grateful for the opportunity to present this statement today. I really mean that. I am also grateful for the invigorating bite of the air on a crisp winter day, the tang of strong black coffee, and the warm, gentle smell of a freshly bathed baby. For you see, I am a cancer survivor and a short time ago all of those precious things were in grave jeopardy. In October of 2005, I was diagnosed with highly aggressive prostate cancer. The aggressiveness of such cancer is quantified on what is known as the "Gleason Scale," which grades cancer on a numerical basis up to 10. A 10 translates into, "pick out the suit you want to wear and choose your pall bearers."

My cancer was rated as a 9. Although the Henry Ford Health System is a pioneering institution in the field of highly advanced precision robotic surgery, I was told that even if I had the surgery, within a year the cancer would return, and return with a vengeance. Fortunately, highly sophisticated state-of-the-art cancer research was being conducted by Dr. Jae Ho Kim, Dr. Svend Freytag, and Dr. Benjamin Movsas at the Henry Ford Health System. The revolutionary new treatment used the drugs Valcyte and Ancobon which had been approved by the FDA for treating infections. The drugs had not been approved for use as chemotherapy, but because of the genius of the aforementioned doctors and the freedom to conduct life-saving research in an unfettered manner, these drugs were used with radiation in gene therapy which resulted in my cancer being rendered benign. The doctors were free to calculate the amount of medicine and dosage of radiation without being encumbered by calculations of possible monetary damages from litigation, increases in insurance premiums, or the future availability of needed drugs. I am alive today because of the availability of these drugs and the freedom of cancer researchers to use them.

I know first hand the grief that one experiences at the loss of a loved one. Every Sunday you will find my family and I at St. Leo's Catholic Church in Detroit, Michigan. I get down on my knees and pray to our loving God. I say prayers of thanks for the people who cured me and the drugs that were available to them to make that cure possible. I also pray for the souls of those who were not as fortunate as I was to receive a life-saving cure. I pray for my mother-in-law who succumbed to colon cancer before she was able to avail herself of a clinical trial involving a promising new experimental drug at Henry Ford. Her death came 18 days before the birth of my son. I grieve for those who have lost loved ones, but taking action which would prevent or inhibit me, and others like me, from receiving the drugs which we need to keep us alive

will not bring anyone back. I understand that the purpose of product liability law is to make whole, to compensate, those who have been injured by defective products. The fact that these much needed drugs have been approved by the FDA aside, if individuals such as myself are deprived of the life-saving drugs that we need because it is no longer financially possible to produce them, how will that make anyone whole? How would my death caused by the deprivation of the drugs that I need compensate anyone? Would the award of a large monetary judgment to a plaintiff which resulted in the elimination of a life-saving drug resulting in the deaths of countless others be considered "justice?" If I die because the drugs that I desperately need can no longer be produced because of product liability issues, who will compensate my wife? If the court awards damages to the family of someone because they were injured while using an FDA approved drug, will the court also appoint someone to console my grieving widow and explain to my son why his father is not there to take him to a baseball game? Taking action which will restrict medical research and inhibit the development of much needed drugs will, without question, cost lives. Slowly, painfully, needlessly, expensively cost lives

Human lives. That is truly what is in the balance here today. Yes, there are issues of damages awarded to plaintiffs and legal liability of pharmaceutical companies. Aside from dollars, access to life-saving drugs is for those most affected a matter of flesh and blood. Do you know what cancer is? It is more than a horrible disease that excruciatingly destroys a person piece by piece in an agonizingly, dehumanizing manner. Cancer is realizing that all of your "things" are woefully unimportant. It is wondering what have I done, and what should I have done with my life? It is painfully gazing upon one's infant son and wondering, "I wonder what kind of a man he will grow up to be," knowing that you will not be there to see. It is lying in bed in the still of the night, staring up at the ceiling, wondering what will the future bring, if there will even be a future, and looking over at your wife who is also staring at the ceiling and watching in the moonlight as a tear trickles down her cheek. Human lives, yes, hoping, dreaming, laughing, loving, human lives are what depend upon your decision. We don't want to die! We want to live!

The members of this committee have been elected because of their intelligence and integrity. We elect the best and brightest to serve as our representatives. I hope that you have never been in the holding room where cancer patients await their treatment. The subject of conversation is always the same, such as, "Did you hear that they have developed a new drug in Houston that they think will be effective in treating leukemia?" "Did you hear about the new treatment for lung cancer in New York?" or "The doctors here at Henry Ford are really good. They come up with new cures all the time." We wait. We wait for the last minute reprieve, the stay of execution, the telephone call from the Governor which often never comes. In making a decision that may prevent or inhibit access to life-saving drugs, intellectual honesty demands that you go to such a holding area, look into the desperate, pleading eyes clinging to hope, look into those eyes, and tell them why they will be deprived access to the drugs that may save their lives because of issues of product liability. You owe that to yourselves, and you owe that to them.

Committee members, I am the proud father of Karol Anthony Lesnick born 23 August 2006. I had aggressive prostate cancer. My father had prostate cancer. My son has the genetic predisposition for prostate cancer. Over 1,000 men in Michigan who are alive today, will be dead next year at this time because of prostate cancer. In the name of thousands of sons that will be affected, perhaps your son or grandson, please consider this issue very carefully. In the name of my beloved son, please do not inhibit or prevent his access to the drugs he will need to combat the cancer that he will most certainly develop. Please.

With most sincere respect and highest esteem,

Anthony Thomas Lesnick
Cancer Survivor
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